

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA <i>ex rel.</i> CORI RIGSBY and KERRI RIGSBY v. STATE FARM FIRE AND CASUALTY COMPANY	§ § § § § § §	RELATORS/ COUNTER-DEFENDANTS Civil No. 1:06CV433-HSO-RHW DEFENDANT/ COUNTER-CLAIMANT
--	---------------------------------	--

**ORDER DENYING STATE FARM FIRE AND CASUALTY COMPANY'S
[1211] MOTION FOR LEAVE TO FILE UNDER SEAL
ITS MOTION FOR LEAVE TO SUBMIT SUR-REPLY**

BEFORE THE COURT is State Farm Fire and Casualty Company's Motion for Leave [1211] to file under seal its Motion for Leave to Submit Sur-Reply in opposition to Relators' Motion for Summary Judgment [1183]. Because the Court finds that any request by State Farm to file a Sur-Reply in opposition to Relators' Motion for Summary Judgment [1183] would not be well taken and would be denied, State Farm's Motion for Leave [1211] should likewise be denied.

Relators filed a Motion for Summary Judgment [1183] on September 5, 2014. State Farm filed a Response [1197] and Memorandum Brief [1198] in opposition to Relators' Motion [1183] on September 29, 2014. Relators filed their Reply [1206] on October 9, 2014. Some eight days later, State Farm filed the present Motion for Leave [1211].

Local Uniform Civil Rule 7(b) does not contemplate the filing of a sur-reply or sur-rebuttal. "The purpose of having a motion, response, and reply is to give the movant the final opportunity to be heard, and to *rebut* the nonmovants' response, thereby persuading the court that the movant is entitled to the relief requested by

the motion.” *Info-Power Int’l, Inc. v. Coldwater Tech., Inc.*, No. 3:07-CV-0937-P, 2008 WL 5552245, at *8 (N.D. Tex. Dec. 31, 2008) (emphasis in original) (quotation omitted). “Surreplies, and any other filing that serves the purpose or has the effect of a surreply, are highly disfavored, as they usually are a strategic effort by the nonmovant to have the last word on a matter.” *Ward v. American Red Cross*, No. 3:13-CV-1042-L, 2013 WL 2916519, at *1 n.* (N.D. Tex. June 14, 2013).

“[S]urreplies are heavily disfavored by courts.” *Warrior Energy Servs. Corp. v. ATP Titan M/V*, 551 F. App’x 749, 751 n.2 (5th Cir. 2014) (quotation omitted).¹

The parties have exhaustively briefed every issue which has arisen in this case. State Farm has sought permission to file briefs exceeding the page limits imposed by the Local Rules on several occasions. *See, e.g.*, State Farm’s Motions [165], [226], [726], [1098]; *see also* Order [169] (striking State Farm’s Reply brief [166] for containing excessive pages). State Farm now seeks permission to file a Sur-Reply which is not only substantively unnecessary, but which would exceed the page limitation imposed by the Local Rules.² All of the parties’ arguments and evidence are properly before the Court. The parties’ positions have been thoroughly briefed

¹Relators sought leave to file a Sur-Reply on March 21, 2013, regarding State Farm’s Motion to Substitute Expert Witness [1056], which the Court denied.

²Local Uniform Civil Rule 7(b)(5) provides that “[m]ovant’s original and rebuttal memorandum briefs together may not exceed a total of thirty-five pages, and respondent’s memorandum brief may not exceed thirty-five pages.” L.U. Civ. R. 7(b)(5). Relators’ original [1184] and reply [1206] memoranda in support of their Motion for Summary Judgment [1183] totaled thirty-five substantive pages. *See id.* State Farm’s original Memorandum [1198] totaled thirty-eight pages but contained approximately thirty-two pages of substantive text. State Farm now seeks to file a Sur-Reply which, when combined with its original Memorandum [1198], would exceed the page limitation imposed by Rule 7(b)(5).

and can be resolved by the Court without the need of a Sur-Reply. Such a pleading would only serve to congest the record further, waste judicial resources, and delay resolution of Relators' Motion for Summary Judgment. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that, State Farm Fire and Casualty Company's Motion for Leave [1211] to file under seal its Motion for Leave to Submit Sur-Reply in opposition to Relators' Motion for Summary Judgment [1183] is **DENIED**.

SO ORDERED AND ADJUDGED, this the 24th day of October, 2014.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE